

FORM SUMMARY

Name of Form:	Dispositional Order-Protection or Services (Chapter 48) Indian Child Welfare Act
Form Number:	IW-1611
Statutory Reference:	§§48.345, 48.355, and 48.356, Wisconsin Statutes
Benchbook Reference:	
Purpose of Form:	Formal order of the court detailing the disposition in a ch. 48 child in need of protection or services (CHIPS) case (this form should not be used in a ch. 938 <i>juvenile</i> in need of protection or services).
Who Completes It:	Court clerk, corporation counsel or district attorney.
Distribution of Form:	Original to court, copies to child, parent/guardian/legal custodian/trustee, Indian custodian, child's attorney, district attorney/corporation counsel, social worker, tribe, and other interested parties.
Accompanying Forms:	JD-1753, Notice Concerning Grounds to Terminate Parental Rights, must be attached.
New Form/Modification:	Modified; last update 04/08.
Modifications:	Updated language to comply with 2009 Wisconsin Act 79 regarding sibling placement and visitation; diligent search and notice to relatives and other adults; and the permanency plan including out-of-state placements. Section 48.355(2)(b)1. requires that the dispositional order contain the "specific services" to be provided to the child and family. Furthermore, <i>Sheboygan County DHHS v. William L.</i> , 2009AP136-138, held that the absence of written court ordered specific services in the CHIPS dispositional order precluded the Department from proving in the TPR case that it made reasonable efforts to comply with such order.
Comments:	<p>This form is to be used when the child is placed out of the home, because ICWA does not apply when the child is placed in the home.</p> <p>Pursuant to ASFA Final Rules, judicial determinations must be explicitly documented and made on a case by case basis. The order must contain the child-specific reasons for the court's decision. Reference simply to state statute to substantiate judicial determinations are not sufficient. Affidavits and <i>nunc pro tunc</i> orders are not acceptable to support determinations related to out of home placements.</p> <p>Additionally, in order to follow the requirements of the Indian Child Welfare Act, the order must contain a finding as to whether the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. This finding must be supported by the testimony of one or more qualified expert witnesses. The order must also contain a finding whether active</p>

efforts have been made to prevent the break up of the Indian family. Finally, the order must state whether the placement preferences of ICWA have been followed.

RMC recommends that the court not rely upon attachments alone as the basis for its findings. Where attachments are used, specific reference to the document title, page and paragraph should be made.

RMC has concerns that out of home placements ordered to be effective in the future may violate ASFA rules. One suggested procedure in these cases is to first enter a dispositional order placing the child at home, then revise the dispositional order pursuant to §48.363 upon the actual removal from the home. Another option is to adjourn the dispositional hearing until the actual removal date.

About this Form:

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.